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Business Registration Division  
DEPT. OF COMMERCE AND  
CONSUMER AFFAIRS  
State of Hawaii

STATE OF HAWAII  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
Business Registration Division  
335 Merchant Street  
Mailing Address: P.O. Box 40, Honolulu, Hawaii 96810



**AMENDED AND RESTATED ARTICLES OF INCORPORATION**

(Section 414D-184, Hawaii Revised Statutes)

PLEASE TYPE OR PRINT LEGIBLY IN BLACK INK

The undersigned, duly authorized officers of the corporation submitting these Amended and Restated Articles of Incorporation, certify as follows:

1. The name of the corporation is:  
THE UNIVERSITY OF HAWAII FOUNDATION

2. The Amended and Restated Articles of Incorporation adopted is attached.

3. The Amended and Restated Articles of Incorporation was adopted on: June 22, 2005  
(Month Day Year)

(Check one)

at a meeting of the *members*.

Designation (class) Of membership	Total Number of Memberships (votes) outstanding	Total Number of Votes Entitled to be Cast By each Class	Number of Votes Cast by each class For Amendment	Number of Votes Cast by each class Against Amendment

OR

by written consent of the *members* holding at least eighty per cent of the voting power.

OR

by a sufficient vote of the *Board of Directors* or *incorporators* because member approval was not required.

4. Check one:

The written approval of a specified person or persons named in the articles of incorporation was obtained.

The written approval of a specified person or persons is not required.

5. The attached Amended and Restated Articles of Incorporation supersedes the original Articles of Incorporation and all amendments thereto.

The undersigned certifies under the penalties of Section 414D-12, Hawaii Revised Statutes, that the undersigned has read the above statements and that the same are true and correct.

Signed this 24th day of June, 2005

William R. King, Vice President  
(Type/Print Name & Title)

(Type/Print Name & Title)

William R King  
(Signature of Officer)

(Signature of Officer)

SEE INSTRUCTIONS ON REVERSE SIDE. The articles must be signed by at least one officer of the corporation.

06/29/200520007

**AMENDED AND RESTATED ARTICLES OF INCORPORATION OF  
THE UNIVERSITY OF HAWAI'I FOUNDATION**

ARTICLE I

Name

The name of the Corporation shall be "University of Hawai'i Foundation".

ARTICLE II

Offices

Section 2.1 Registered and Principal Office; Registered Agent. The Corporation shall have and continuously maintain a registered office and a registered agent in the State of Hawai'i as required by Hawai'i law. The registered agent shall be either an individual resident of the State or a corporation authorized to transact business in the State. The current location of the Corporation and the street and mailing address of its principal office are 2444 Dole Street, Bachman Hall, Room 105, Honolulu, Hawai'i 96822.

Section 2.2 Change or Additional Offices. The location of the principal office or the establishment of additional offices may be determined by the Board of Trustees as set forth in the Bylaws.

ARTICLE III

Corporate Purpose and Powers

Section 3.1 Purpose: The Corporation is organized exclusively for the following purpose:

(1) To raise and manage private support for the benefit of the University of Hawai'i and all campuses and units that comprise the University of Hawai'i System and to otherwise support the University of Hawai'i System; and

(2) To operate exclusively for educational, charitable, scientific, or literary purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (or the corresponding provision of any future United States internal revenue law).

Section 3.2 Restrictions. No part of the assets, funds, or earnings of the Corporation shall inure to the benefit of any trustee or officer of the Corporation or any individual having a private interest in the activities of the Corporation. No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation; provided, however, the Corporation may make the election provided under

Section 501(h) of the Internal Revenue Code of 1986, as amended (or the corresponding provision of any United States internal revenue law), and if the Corporation so elects, make expenditures that do not exceed the "lobbying ceiling amounts" and the "grass roots ceiling amounts" thereunder. The Corporation shall not participate in or intervene in (including the publication or distribution of statements) any political campaign on behalf of any candidate for public office. The term "funds of the Corporation," as used herein, shall mean and include any properties and moneys then held by the Corporation, including any income accumulated by the Corporation and any proceeds from the sale of any properties sold or otherwise disposed of by the Corporation.

Notwithstanding any other provision of these Articles, the Corporation shall not carry on any activities not permitted to be carried on:

(i) By a corporation exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (or the corresponding provision of any future United States internal revenue law); or

(ii) By a corporation contributions to which are deductible under Section 170(c)(2) of the Internal Revenue Code of 1986, as amended (or the corresponding provision of any future United States internal revenue law).

Section 3.3. Powers. The Corporation shall have and possess all the powers permitted to nonprofit corporations under the laws of the State of Hawai'i.

#### ARTICLE IV

##### Duration of the Corporation

The duration of the Corporation shall be perpetual.

#### ARTICLE V

##### Board of Trustees and Officers

Section 5.1. Board of Trustees. There shall be a Board of Trustees, including designated ex officio trustees, consisting of not less than twenty (20) or more than thirty-five (35) persons. The number of trustees shall be fixed, and the trustees shall be elected, appointed or designated in accordance with the Bylaws. The Board of Trustees shall have and may exercise all the powers of the Corporation except as otherwise provided by these Articles of Incorporation or the Bylaws.

Section 5.2. Officers. The officers of the Corporation shall be a Chairperson, one or more Vice Chairpersons, a President, one or more Vice Presidents, a Secretary and a Treasurer. The Corporation may have such additional officers as the Board of Trustees shall

from time to time determine including without limitation, an Assistant Secretary and an Assistant Treasurer. The officers shall have the powers, perform the duties and be elected in the manner set forth in the Bylaws. Any two (2) or more offices may be held by the same person unless such practice is prohibited by the Bylaws; provided, however, that not less than two (2) persons shall be officers.

Section 5.3 Members of the Corporation. The Corporation shall have no members. The Board of Trustees shall have the sole voting rights in the Corporation. The general management of the affairs of the Corporation shall be vested in the Board of Trustees.

## ARTICLE VI

### Nonprofit

The Corporation is not organized for profit and will issue no stock and no part of its assets, income or earnings will be used for dividends or otherwise withdrawn or distributed to its trustees or officers, except for services actually rendered to the Corporation; provided, however, that the Corporation shall be empowered to make payments and distributions in furtherance of the purposes for which it is organized and operated.

## ARTICLE VII

### Corporate Liability

The property of the Corporation shall alone be liable for the payment of its debts and liabilities and the officers and trustees of the Corporation shall incur no personal liability for the debts and obligations of the Corporation by reason of their position.

## ARTICLE VIII

### Limitation of Liability; Indemnification; Savings Clause.

#### Section 8.1 Limitation of Liability.

(A) No trustee or former trustee (including emeritus trustees) of the Corporation shall be personally liable to the Corporation for monetary damages for breach of the trustee's duties to the Corporation, except this limitation of liability shall not limit liability for (a) any breach of the trustee's duty of loyalty to the Corporation; (b) acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; (c) any transaction in which a trustee received an improper personal economic benefit; or (d) violations of Hawai'i law relating to trustee conflicts of interest, loans to trustees or the guaranty of obligations of trustees, or trustee liability for unlawful distributions.

(B) In addition to and without in any respect narrowing the limitation of liability of trustees and former trustees set forth in subsection 8.1(A), no person who serves as a trustee or officer of the Corporation, without remuneration or expectation of remuneration, shall be liable for damage, injury, or loss caused by or resulting from the trustee's or officer's performance, or failure to perform, duties of the position to which the person was elected or appointed, unless the trustee or officer was grossly negligent in the performance of, or failure to perform, such duties. For purposes of this section, remuneration does not include payment or reimbursement of reasonable expenses incurred by or on behalf of a trustee or officer or the provision of indemnification or insurance for actions as a trustee or officer.

(C) Any repeal, amendment, or other modification of this Section 8.1 shall have prospective effect only and shall not affect the limitation of liability afforded by its provisions, or give rise to or increase any liability, for acts or omissions occurring prior to such repeal, amendment or other modification.

#### Section 8.2 Indemnification and Advance of Expenses.

(A) The Corporation shall indemnify each current and former trustee (including emeritus trustees) and officer of the Corporation from any liability to any person for any action taken, and any failure to take action, as a trustee or officer to the fullest extent permitted by Hawaii law if it is determined, as provided in Hawaii Revised Statutes Section 414D-164, or any successor provision of Hawai'i law, that said person met the standard of conduct required to provide indemnification, except liability to the Corporation for (a) any breach of the duty of loyalty to the Corporation; (b) acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; (c) any transaction in which a trustee or officer received an improper personal economic benefit; or (d) violations of Hawai'i law relating to trustee conflicts of interest, loans to trustees or officers or the guaranty of obligations of trustees or officers, or trustee liability for unlawful distributions. The Corporation may indemnify employees or agents of the Corporation who meet the applicable standards of conduct as determined by resolution of the Board

(B) The Corporation shall authorize payment in advance of final disposition of an action, suit or proceeding for the expenses and attorneys' fees incurred by a trustee or officer seeking indemnification under this Section 8.2 to the maximum extent permitted by law, provided that such trustee or officer delivers a written affirmation of the trustee's or officer's good faith belief that the trustee or officer has met the requisite standard of conduct, and delivers a written undertaking to repay such amount if it is ultimately determined that such person is not entitled to be indemnified.

(C) Any repeal, amendment or other modification of this Section 8.2 shall have prospective effect only and shall not affect the right of any current or former trustee or officer, to indemnification and advancement of expenses for any action taken or failure to take action by such trustee or officer prior to the date of such repeal, amendment or other modification.

(D) The Corporation shall purchase and maintain insurance on behalf of any person described in this Article VIII against any liability asserted against or incurred by such

person in any such capacity or arising out of such person's status, regardless of whether the Corporation would have the power to indemnify the person against such liability.

(E) If this Article or any Section or provision hereof shall be invalidated by any court on any ground, then the Corporation shall nevertheless indemnify each party otherwise entitled to indemnification hereunder or advance expenses to the fullest extent permitted by law or any applicable provision of this Article that shall not have been declared invalid. Notwithstanding any other provision of these Articles, the Corporation shall not indemnify any person, purchase any insurance, or advance expenses, in any manner or to any extent or under any circumstances that would jeopardize or be inconsistent with the qualification of the Corporation as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (or any corresponding provision of future United States internal revenue law).

## ARTICLE IX

### Corporate Dissolution

If the Corporation shall cease to exist or shall be dissolved, all property and assets of the Corporation of every kind, after payment of its just debts, shall be distributed as determined by the Board of Trustees, consistent with applicable law and donor intent, to the University of Hawai'i for a public purpose or to one or more successor organizations, public agencies, corporations, trusts or foundations recognized as exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (or the corresponding provision of any future United States internal revenue law), having like purposes and organized and operated exclusively for charitable, scientific, literary, or educational purposes, no part of whose assets, income or earnings may be used for dividends or otherwise withdrawn or distributed to or inure to the benefit of any private shareholder or individual and the activities of which do not include participation or intervention in (including the publication or distribution of statements) any political campaign on behalf of any candidate for public office. In no event shall any distribution be made to any such alternative organization unless it qualifies as a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code of 1986 (or the corresponding provision of any future United States internal revenue law) with purposes similar or related to those of the Corporation. Notwithstanding the above, the recipient of such assets upon dissolution must be primarily devoted to the development and enrichment of the University of Hawai'i, for which purpose the Corporation was originally established.

## ARTICLE X

### Amendment of Bylaws

The Bylaws of the Corporation may be altered, amended, rescinded, or replaced at any annual or special meeting of the Board of Trustees by resolution approved by the affirmative vote of a majority of the trustees then in office and entitled to vote.

ARTICLE XI

Amendment of Articles of Incorporation

These Articles of Incorporation shall be subject to amendment from time to time by the affirmative vote of two-thirds (2/3) of the trustees of the Corporation then in office and entitled to vote, provided not less than seven (7) days written notice of any proposed amendments is provided to the trustees.

ARTICLE XII

Amendment and Restatement

These Amended and Restated Articles of Incorporation shall supercede the original Charter of Incorporation and all amendments thereto.

06/29/200520007